

**19.804-6 Indefinite delivery contracts.**

(a) Separate offers and acceptances must not be made for individual orders under multiple award, Federal Supply Schedule (FSS), multi-agency contracts or Governmentwide acquisition contracts. SBA's acceptance of the original contract is valid for the term of the contract.

(b) The requirements of 19.805-1 of this part do not apply to individual orders that exceed the competitive threshold as long as the original contract was competed.

(c) An 8(a) concern may continue to accept new orders under a multiple award, Federal Supply Schedule (FSS), multi-agency contract or Governmentwide acquisition contract even after a concern's program term expires, the concern otherwise exits the 8(a) Program, or the concern becomes other than small for the NAICS code assigned under the contract.

[72 FR 36855, July 5, 2007]

**19.805 Competitive 8(a).****19.805-1 General.**

(a) Except as provided in paragraph (b) of this subsection, an acquisition offered to the SBA under the 8(a) Program shall be awarded on the basis of competition limited to eligible 8(a) firms if—

(1) There is a reasonable expectation that at least two eligible and responsible 8(a) firms will submit offers and that award can be made at a fair market price; and

(2) The anticipated total value of the contract, including options, will exceed \$5.5 million for acquisitions assigned manufacturing North American Industry Classification System (NAICS) codes and \$3.5 million for all other acquisitions.

(b) Where an acquisition exceeds the competitive threshold, the SBA may accept the requirement for a sole source 8(a) award if—

(1) There is not a reasonable expectation that at least two eligible and responsible 8(a) firms will submit offers at a fair market price; or

(2) SBA accepts the requirement on behalf of a concern owned by an Indian tribe or an Alaska Native Corporation.

(c) A proposed 8(a) requirement with an estimated value exceeding the applicable competitive threshold amount shall not be divided into several requirements for lesser amounts in order to use 8(a) sole source procedures for award to a single firm.

(d) The SBA Associate Administrator for 8(a) Business Development (AA/8(a)BD) may approve an agency request for a competitive 8(a) award below the competitive thresholds. Such requests will be approved only on a limited basis and will be primarily granted where technical competitions are appropriate or where a large number of responsible 8(a) firms are available for competition. In determining whether a request to compete below the threshold will be approved, the AA/8(a)BD will, in part, consider the extent to which the requesting agency is supporting the 8(a) Program on a noncompetitive basis. The agency may include recommendations for competition below the threshold in the offering letter or by separate correspondence to the AA/8(a)BD.

[54 FR 46005, Oct. 31, 1989, as amended at 61 FR 67421, Dec. 20, 1996; 64 FR 32744, June 17, 1999; 65 FR 46056, July 26, 2000; 68 FR 4051, Jan. 27, 2003; 69 FR 8314, Feb. 23, 2004; 71 FR 57367, Sept. 28, 2006]

**19.805-2 Procedures.**

(a) Offers shall be solicited from those sources identified in accordance with 19.804-3.

(b) The SBA will determine the eligibility of the firms for award of the contract. Eligibility will be determined by the SBA as of the time of submission of initial offers which include price. Eligibility is based on Section 8(a) Program criteria.

(1) In sealed bid acquisitions, upon receipt of offers, the contracting officer will provide the SBA a copy of the solicitation, the estimated fair market price, and a list of offerors ranked in the order of their standing for award (i.e., first low, second low, etc.) with the total evaluated price for each offer, differentiating between basic requirements and any options. The SBA will consider the eligibility of the first low offeror. If the first low offeror is not determined to be eligible, the SBA will consider the eligibility of the next low